

LITTLETON, JOYCE, UGHETTA, PARK & KELLY LLP  
Wendy B. Shepps (WS-1207)  
*Attorneys for Defendant Cohen & Slamowitz, LLP*  
39 Broadway, 34th Floor  
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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X	
ERIKA SUQUILANDA,	: <b>10-CV-5868</b>
	:
Plaintiff,	:
	: <b>ANSWER TO FIRST</b>
	: <b>AMENDED CLASS</b>
- against -	: <b><u>ACTION COMPLAINT</u></b>
	:
	:
COHEN & SLAMOWITZ, LLP, and ENCORE CAPITAL	:
GROUP, INC. and MRC RECEIVABLES	:
CORPORATION and MIDLAND CREDIT	:
MANAGEMENT, INC.,	:
	:
Defendants.	:
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Defendant, COHEN & SLAMOWITZ, LLP (hereinafter “Defendant or “COHEN & SLAMOWITZ”), by its attorneys, LITTLETON, JOYCE, UGHETTA, PARK & KELLY LLP hereby responds, upon information and belief, to the Plaintiff’s First Amended Class Action Complaint, as follows:

**NATURE OF ACTION**

**FIRST:** Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained within paragraph “1” of Plaintiff’s Complaint, and in addition, refers all questions of law to the trial court for judicial determination.

**JURISDICTION AND VENUE**

**SECOND:** Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained within paragraph “2” of Plaintiff’s Complaint, and in addition, refers all questions of law to the trial court for judicial determination.

**THIRD:** Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained within paragraph “3” of Plaintiff’s Complaint, and in addition, refers all questions of law to the trial court for judicial determination.

**PARTIES**

**FOURTH:** Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained within paragraph “4” of Plaintiff’s Complaint.

**FIFTH:** Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained within paragraph “5” of Plaintiff’s Complaint, and in addition, refers all questions of law to the trial court for judicial determination.

**SIXTH:** Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained within paragraph “6” of Plaintiff’s Complaint.

**SEVENTH:** Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained within paragraph “7” of Plaintiff’s Complaint.

**EIGHTH:** Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained within paragraph “8” of Plaintiff’s Complaint, and in addition, refers all questions of law to the trial court for judicial determination.

**NINTH:** Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained within paragraph “9” of Plaintiff’s Complaint.

**TENTH:** Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained within paragraph “10” of Plaintiff’s Complaint.

**ELEVENTH:** Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained within paragraph “11” of Plaintiff’s Complaint.

**TWELFTH:** Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained within paragraph “12” of Plaintiff’s Complaint, and in addition, refers all questions of law to the trial court for judicial determination.

**THIRTEENTH:** Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained within paragraph “13” of Plaintiff’s Complaint.

**FOURTEENTH:** Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained within paragraph “14” of Plaintiff’s Complaint.

**FIFTEENTH:** Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained within paragraph “15” of Plaintiff’s Complaint, and in addition, refers all questions of law to the trial court for judicial determination.

**SIXTEENTH:** Admits each and every allegation contained within paragraph “16” of Plaintiff’s Complaint.

**SEVENTEENTH:** Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained within paragraph “17” of Plaintiff’s Complaint.

**EIGHTEENTH:** Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained within paragraph “18” of Plaintiff’s Complaint, and in addition, refers all questions of law to the trial court for judicial determination.

**NINETEENTH:** Denies the truth of each and every allegation contained in paragraph “19” of Plaintiff’s Complaint.

**TWENTIETH:** Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained within paragraph “20” of Plaintiff’s Complaint.

**TWENTY-FIRST:** Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained within paragraph “21” of Plaintiff’s Complaint.

**FACTUAL ALLEGATIONS**

**TWENTY-SECOND:** Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained within paragraph “22” of Plaintiff’s Complaint.

**TWENTY-THIRD:** Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained within paragraph “23” of Plaintiff’s Complaint.

**TWENTY-FOURTH:** Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained within paragraph “24” of Plaintiff’s Complaint.

**TWENTY-FIFTH:** Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained within paragraph “25” of Plaintiff’s Complaint, and in addition, refers all questions of law to the trial court for judicial determination.

**TWENTY-SIXTH:** Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained within paragraph “26” of Plaintiff’s Complaint.

**TWENTY-SEVENTH:** Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained within paragraph “27” of Plaintiff’s Complaint.

**TWENTY-EIGHTH:** Denies knowledge or information sufficient to form a belief as to the truth of the allegation contained within paragraph “28” of Plaintiff’s Complaint.

**TWENTY-NINTH:** Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained within paragraph “29” of Plaintiff’s Complaint.

**THIRTIETH:** Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained within paragraph “30” of Plaintiff’s Complaint.

**THIRTY-FIRST:** Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained within paragraph “31” of Plaintiff’s Complaint.

**THIRTY-SECOND:** Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained within paragraph “32” of Plaintiff’s Complaint.

**THIRTY- THIRD:** Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained within paragraph “33” of Plaintiff’s Complaint.

**THIRTY-FOURTH:** Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained within paragraph “34” of Plaintiff’s Complaint.

**THIRTY-FIFTH:** Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained within paragraph “35” of Plaintiff’s Complaint.

**THIRTY-SIXTH:** Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained within paragraph “36” of Plaintiff’s Complaint.

**THIRTY-SEVENTH:** Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained within paragraph “37” of Plaintiff’s Complaint.

**THIRTY-EIGHTH:** Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained within paragraph “38” of Plaintiff’s Complaint.

**THIRTY-NINTH:** Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained within paragraph “39” of Plaintiff’s Complaint.

**FORTIETH:** Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained within paragraph “40” of Plaintiff’s Complaint.

**FORTY-FIRST:** Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained within paragraph “41” of Plaintiff’s Complaint.

**FORTY-SECOND:** Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained within paragraph “42” of Plaintiff’s Complaint.

**FORTY-THIRD:** Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained within paragraph “43” of Plaintiff’s Complaint.

**FORTY-FOURTH:** Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained within paragraph “44” of Plaintiff’s Complaint.

**FORTY-FIFTH:** Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained within paragraph “45” of Plaintiff’s Complaint.

**FORTY-SIXTH:** Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained within paragraph “46” of Plaintiff’s Complaint.

**FORTY-SEVENTH:** Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained within paragraph “47” of Plaintiff’s Complaint.

**FORTY-EIGHTH:** Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained within paragraph “48” of Plaintiff’s Complaint.



**FORTH-NINTH:** Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained within paragraph “49” of Plaintiff’s Complaint.

**FIFTIETH:** Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained within paragraph “50” of Plaintiff’s Complaint.

**FIFTY-FIRST:** Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained within paragraph “51” of Plaintiff’s Complaint.

**FIFTY-SECOND:** Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained within paragraph “52” of Plaintiff’s Complaint.

**FIFTY-THIRD:** Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained within paragraph “53” of Plaintiff’s Complaint.

**FIFTY-FOURTH:** Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained within paragraph “54” of Plaintiff’s Complaint.

**FIFTY-FIFTH:** Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained within paragraph “55” of Plaintiff’s Complaint.

**FIFTY-SIXTH:** Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained within paragraph “56” of Plaintiff’s Complaint.

**FIFTY-SEVENTH:** Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained within paragraph “57” of Plaintiff’s Complaint.

**FIFTY-EIGHTH:** Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained within paragraph “58” of Plaintiff’s Complaint.

**FIFTY-NINTH:** Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained within paragraph “59” of Plaintiff’s Complaint.

**SIXTIETH:** Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained within paragraph “60” of Plaintiff’s Complaint.

**SIXTY-FIRST:** Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained within paragraph “61” of Plaintiff’s Complaint.

**SIXTY-SECOND:** Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained within paragraph “62” of Plaintiff’s Complaint.

**SIXTY-THIRD:** Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained within paragraph “63” of Plaintiff’s Complaint.

**SIXTY-FOURTH:** Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained within paragraph “64” of Plaintiff’s Complaint.

**SIXTY-FIFTH:** Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained within paragraph “65” of Plaintiff’s Complaint.

**SIXTY-SIXTH:** Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained within paragraph “66” of Plaintiff’s Complaint, and in addition, states that the contents of the documents referred to therein speak for themselves.

**SIXTY-SEVENTH:** Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained within paragraph “67” of Plaintiff’s Complaint, and in addition, states that the contents of the documents referred to therein speak for themselves.

**SIXTY-EIGHTH:** Denies the truth of each and every allegation contained within paragraph “68” of Plaintiff’s Complaint.

**SIXTY-NINTH:** Admits the truth of the allegations contained within paragraph “69” of Plaintiff’s Complaint.

**SEVENTIETH:** Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained within paragraph “70” of Plaintiff’s Complaint.

**SEVENTY-FIRST:** Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained within paragraph “71” of Plaintiff’s Complaint.

**SEVENTY-SECOND:** Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained within paragraph “72” of Plaintiff’s Complaint, and in addition, states that the contents of the documents referred to therein speak for themselves.

**SEVENTY-THIRD:** Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained within paragraph “73” of Plaintiff’s Complaint, and in addition, states that the contents of the documents referred to therein speak for themselves.

**SEVENTY-FOURTH:** Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained within paragraph “74” of Plaintiff’s Complaint.

**SEVENTY-FIFTH:** Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained within paragraph “75” of Plaintiff’s Complaint, and in addition, states that the contents of the documents referred to therein speak for themselves.

**SEVENTY-SIXTH:** Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained within paragraph “76” of Plaintiff’s Complaint.

**SEVENTY-SEVENTH:** Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained within paragraph “77” of Plaintiff’s Complaint.

**SEVENTY-EIGHTH:** Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained within paragraph “78” of Plaintiff’s Complaint.

**SEVENTY-NINTH:** Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained within paragraph “79” of Plaintiff’s Complaint.

**EIGHTIETH:** Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained within paragraph “80” of Plaintiff’s Complaint.

**EIGHTY-FIRST:** Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained within paragraph “81” of Plaintiff’s Complaint.

**EIGHTY-SECOND:** Denies the truth of each and every allegation contained within paragraph “82” of Plaintiff’s Complaint.

**EIGHTY-THIRD:** Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained within paragraph “83” of Plaintiff’s Complaint.

**EIGHTY-FOURTH:** Denies the truth of each and every allegation contained within paragraph “84” of Plaintiff’s Complaint.

**EIGHTY-FIFTH:** Denies the truth of each and every allegation contained within paragraph “85” of Plaintiff’s Complaint.

**EIGHTY-SIXTH:** Denies the truth of each and every allegation contained within paragraph “86” of Plaintiff’s Complaint.

**EIGHTY-SEVENTH:** Denies the truth of each and every allegation contained within paragraph “87” of Plaintiff’s Complaint.

**EIGHTY-EIGHTH:** Denies the truth of each and every allegation contained within paragraph “88” of Plaintiff’s Complaint.

**EIGHTY-NINTH:** Denies the truth of each and every allegation contained within paragraph “89” of Plaintiff’s Complaint.

**NINETIETH:** Denies the truth of each and every allegation contained within paragraph “90” of Plaintiff’s Complaint.

**NINETY-FIRST:** Denies the truth of each and every allegation contained within paragraph “91” of Plaintiff’s Complaint.

**NINETY-SECOND:** Denies the truth of each and every allegation contained within paragraph “92” of Plaintiff’s Complaint.

**NINETY-THIRD:** Denies the truth of each and every allegation contained within paragraph “93” of Plaintiff’s Complaint.

**NINETY-FOURTH:** Denies the truth of each and every allegation contained within paragraph “94” of Plaintiff’s Complaint.

**NINETY-FIFTH:** Denies the truth of each and every allegation contained within paragraph “95” of Plaintiff’s Complaint.

**NINETY-SIXTH:** Denies the truth of each and every allegation contained within paragraph “96” of Plaintiff’s Complaint.

**NINETY-SEVENTH:** Denies the truth of each and every allegation contained within paragraph “97” of Plaintiff’s Complaint.

### **COUNT I**

Count I of Plaintiff’s Complaint, including paragraphs “98” through “109”, was dismissed in its entirety as against defendant Cohen & Slamowitz pursuant to the Memorandum and Order of the Hon. P. Kevin Castel, United States District Judge dated September 7, 2011. Accordingly, to the extent a response is due to said paragraphs, Defendant denies the truth of each and every allegation contained within paragraphs “98” through “109” of Plaintiff’s Complaint.

### **COUNT II**

**HUNDRED-TENTH:** Defendant repeats, reiterates and realleges each and every denial and denial asserted upon information and belief in response to paragraphs “1” through “110” of the Plaintiff’s Complaint as if the same were repeated verbatim at length herein.

**HUNDRED-ELEVENTH** Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained within paragraph “111” of Plaintiff’s Complaint, and in addition, refers all questions of law to the trial court for judicial determination.

**HUNDRED-TWELFTH:** Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained within paragraph “112” of

Plaintiff's Complaint, and in addition, states that the contents of the documents referred to therein speak for themselves.

**HUNDRED-THIRTEENTH:** Denies the truth of each and every allegation contained within paragraph "113" of Plaintiff's Complaint.

**HUNDRED-FOURTEENTH:** Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained within paragraph "114" of Plaintiff's Complaint.

**HUNDRED-FIFTEENTH:** Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained within paragraph "115" of Plaintiff's Complaint, and in addition, states that the contents of the documents referred to therein speak for themselves.

**HUNDRED-SIXTEENTH:** Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained within paragraph "116" of Plaintiff's Complaint.

**HUNDRED-SEVENTEENTH:** Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained within paragraph "117" of Plaintiff's Complaint.

**HUNDRED-EIGHTEENTH:** Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained within paragraph "118" of Plaintiff's Complaint.

**HUNDRED-NINETEENTH:** Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained within paragraph



“119” of Plaintiff’s Complaint, and in addition, states that the contents of the documents referred to therein speak for themselves.

**HUNDRED-TWENTIETH:** Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained within paragraph “120” of Plaintiff’s Complaint, and in addition, states that the contents of the documents referred to therein speak for themselves.

**HUNDRED-TWENTY-FIRST:** Denies the truth of each and every allegation contained within paragraph “121” of Plaintiff’s Complaint.

**HUNDRED-TWENTY-SECOND:** Denies the truth of each and every allegation contained within paragraph “122” of Plaintiff’s Complaint.

**HUNDRED-TWENTY-THIRD:** Denies the truth of each and every allegation contained within paragraph “123” of Plaintiff’s Complaint.

**HUNDRED-TWENTY-FOURTH:** Denies the truth of each and every allegation contained within paragraph “124” of Plaintiff’s Complaint.

**HUNDRED-TWENTY-FIFTH:** Denies the truth of each and every allegation contained within paragraph “125” of Plaintiff’s Complaint.

**HUNDRED-TWENTY-SIXTH:** Denies the truth of each and every allegation contained within paragraph “126” of Plaintiff’s Complaint, inclusive of subparagraphs a through f.

### **COUNT III**

**HUNDRED-TWENTY-SEVENTH:** Defendant repeats, reiterates and realleges each and every denial and denial asserted upon information and belief in

response to paragraphs “1” through “127” of the Plaintiff’s Complaint as if the same were repeated verbatim at length herein.

**HUNDRED-TWENTY-EIGHTH:** Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained within paragraph “128” of Plaintiff’s Complaint, and in addition, refers all questions of law to the trial court for judicial determination.

**HUNDRED-TWENTY-NINTH:** Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained within paragraph “129” of Plaintiff’s Complaint, and in addition, refers all questions of law to the trial court for judicial determination.

**HUNDRED-THIRTIETH:** Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained within paragraph “130” of Plaintiff’s Complaint, and in addition, refers all questions of law to the trial court for judicial determination.

**HUNDRED-THIRTY-FIRST:** Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained within paragraph “131” of Plaintiff’s Complaint, and in addition, refers all questions of law to the trial court for judicial determination.

**HUNDRED-THIRTY-SECOND:** Denies the truth of each and every allegation contained within paragraph “132” of Plaintiff’s Complaint.

**HUNDRED-THIRTY-THIRD:** Denies the truth of each and every allegation contained within paragraph “133” of Plaintiff’s Complaint, inclusive of subparagraphs a through f.

**COUNT IV**

**HUNDRED-THIRTY-FOURTH:** Defendant repeats, reiterates and realleges each and every denial and denial asserted upon information and belief in response to paragraphs “1” through “134” of the Plaintiff’s Complaint as if the same were repeated verbatim at length herein.

**HUNDRED-THIRTY-FIFTH:** Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained within paragraph “135” of Plaintiff’s Complaint.

**HUNDRED-THIRTY-SIXTH:** Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained within paragraph “136” of Plaintiff’s Complaint, and in addition, refers all questions of law to the trial court for judicial determination.

**HUNDRED-THIRTY-SEVENTH:** Denies the truth of each and every allegation contained within paragraph “137” of Plaintiff’s Complaint.

**HUNDRED-THIRTY-EIGHTH:** Denies the truth of each and every allegation contained within paragraph “138” of Plaintiff’s Complaint.

**HUNDRED-THIRTY-NINTH:** Denies the truth of each and every allegation contained within paragraph “139” of Plaintiff’s Complaint.

**HUNDRED-FORTIETH:** Denies the truth of each and every allegation contained within paragraph “140” of Plaintiff’s Complaint.

**HUNDRED-FORTY-FIRST:** Denies the truth of each and every allegation contained within paragraph “141” of Plaintiff’s Complaint, including subparagraphs g through l.

**HUNDRED-FORTY-SECOND:** Denies the truth of each and every allegation contained within paragraph “142” of Plaintiff’s Complaint.

**AS AND FOR ANSWERING DEFENDANT’S  
FIRST AFFIRMATIVE DEFENSE**

Plaintiff’s Complaint fails to states a valid cause of action upon which relief may be granted.

**AS AND FOR ANSWERING DEFENDANT’S  
SECOND AFFIRMATIVE DEFENSE**

The plaintiff’s Complaint is not supported by documentary evidence.

**AS AND FOR ANSWERING DEFENDANT’S  
THIRD AFFIRMATIVE DEFENSE**

Upon information and belief, the causes of action asserted in the Plaintiff’s Complaint against the Answering Defendant are barred in whole or in part by the doctrine of estoppel.

**AS AND FOR ANSWERING DEFENDANT’S  
FOURTH AFFIRMATIVE DEFENSE**

If plaintiff has incurred any damages herein, which claim is expressly denied, such damages are the result of her own culpable conduct.

**AS AND FOR ANSWERING DEFENDANT’S  
FIFTH AFFIRMATIVE DEFENSE**

Defendant did not violate, in whole or in part, any provision of the FDCPA.

**AS AND FOR ANSWERING DEFENDANT'S  
SIXTH AFFIRMATIVE DEFENSE**

To the extent a violation of any provision of 15 USC §1692 occurred, which violation is expressly denied, such violation was not intentional and resulted from a bona fide error notwithstanding reasonable procedures adopted to avoid any such error.

**AS AND FOR ANSWERING DEFENDANT'S  
SEVENTH AFFIRMATIVE DEFENSE**

To the extent a violation of any provision of 15 USC §1692 occurred, which violation is expressly denied, such violation was the result of acts of non-agents, or agents acting outside the scope of their authority.

**AS AND FOR ANSWERING DEFENDANT'S  
EIGHTH AFFIRMATIVE DEFENSE**

The instant action is barred by the expiration of the applicable statute of limitations.

**AS AND FOR ANSWERING DEFENDANT'S  
NINTH AFFIRMATIVE DEFENSE**

Plaintiff is precluded by the doctrine of waiver and estoppel.

**AS AND FOR ANSWERING DEFENDANT'S  
TENTH AFFIRMATIVE DEFENSE**

Plaintiff has failed to mitigate her damages.

**AS AND FOR A  
FIRST COUNTERCLAIM AGAINST PLAINTIFF**

1. Defendant submits that the instant action has been interposed by Plaintiff in bad faith and for the purpose of harassment.

2. By virtue of the foregoing, pursuant to 15 U.S.C. §1692k(a)(3), Defendant is entitled to an award of reasonable attorney's fees and costs incurred herein.

**WHEREFORE**, Answering Defendant COHEN & SLAMOWITZ, LLP, respectfully requests that this Court enter judgment herein dismissing Plaintiff's claims against them in their entirety, and granting Defendant judgment on its counterclaim, together with such other, further and different relief as this Court deems just and proper.

Dated: New York, New York  
September 22, 2011

Respectfully Yours,

**LITTLETON, JOYCE, UGHETTA,  
PARK & KELLY LLP**



By: \_\_\_\_\_  
Wendy B. Shepps (WS1207)  
*Attorneys for Defendant*  
COHEN & SLAMOWITZ, LLP  
39 Broadway, 34<sup>th</sup> Floor  
New York, New York 10006  
(212) 404-5777  
File No.: 07883.00030

TO: Weisberg & Meyers, LLC  
Dennis R. Kurz, Esq.  
Attorney for Plaintiff  
Erika Suquilanda  
80 Broad Street, 5<sup>th</sup> Floor  
New York, New York 10004

Wilson, Elser, Moskowitz, Edelman & Dicker, LLP  
Thomas Leghorn, Esq.  
Attorney for Defendants  
Encore Capital Group, Inc.,  
MRC Receivables Corporation  
and Midland Credit Management, Inc.,  
150 East 42<sup>nd</sup> Street  
New York, New York 10021

**CERTIFICATE OF SERVICE**

I, Wendy B. Shepps, hereby certify that on September 22, 2011, I electronically filed the foregoing Answer with the Clerk of the District Court using its CM/ECF system which would then electronically notify Weisberg & Meyers, LLC, counsel for the Plaintiff and Wilson, Elser, Moskowitz, Edelman & Dicker, LLP, Attorney for Defendants Encore Capital Group, Inc., MRC Receivables Corporation and Midland Credit Management, Inc..

A handwritten signature in black ink, appearing to read 'Wendy B. Shepps', with a long horizontal flourish extending to the right.

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Wendy B. Shepps (WS 1207)